IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

THURSDAY, THE 6TH DECEMBER 2007 / 15TH AGRAHAYANA 1929

CRP.No. 175 of 2007()

OPEA.93/2002 of ADDL.D.C.,ALAPPUZHA.
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REVN. PETITIONER: RESPONDENT

POWER GRID CORPORATION OF INDIA LTD.,
NANGIARKULANGARA, HARIPAD,
REPRESENTED BY ITS MANAGING DIRECTOR.

BY ADV. SRI.MILLU DANDAPANI

RESPONDENT: PETITIONER

MATHAI GEORGE,
ELLATHU VADAKKU, KADUVINAL MURI,
VALLIKUNNAM.

BY ADV. SRI.PHILIP M.VARUGHESE

THIS CIVIL REVISION PETITION HAVING BEEN FINALLY HEARD ON 06/12/2007 ALONG WITH CRP 176/07, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

M.N.Krishnan, J.

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C.R.P.Nos.175 & 176 of 2007

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Dated this the 6th day of December, 2007.

ORDER

These revision petitions are preferred against the awards of the Additional District Judge, Alappuzha in O.P.(E.A.)Nos. 93 and 94 of 2002 whereby the the court below has awarded compensation of Rs.70,315/- in O.P.(E.A.) No.93 of 2002 and Rs.15,610/- in O.P.(E.A.)No.94 of 2002. In both these cases, the court has relied upon the decision of this Court reported in **Kumba Amma** v. **K.S.E.B.** - 2000(1) K.L.T. 542. Learned counsel for the revision petitioner has drawn my attention to the decision of the Apex Court reported in **K.S.E.B.** v. **Livisha** - 2007 (3) K.L.T.1 where the court has held that each has to be decided on the facts and circumstances of that case. The Apex Court has held thus:

> "The situs of the land, the distance between the high voltage electricity line laid thereover, the extent of the line thereon as also the fact as to whether the high voltage line passes over a small track of land or through the middle of the land and other similar relevant factors in our opinion would be determinative. The value of the land would also be a

> relevant factor. The owner of the land furthermore, in a given situation may lose his substantive right to use the property for the purpose for which the same was meant to be used. So far as the compensation in relation to fruit bearing trees are concerned the same would also depend upon the facts and circumstances of each case."

In the light of the above decision, the matter requires reconsideration for the reason that additional documentary as well as oral evidence is necessary for a proper disposal of the matter.

2. Therefore, the awards under challenge are set aside and the cases are remitted back to the court below for deciding the same afresh after affording equal opportunities to both sides and produce and adduce oral as well as documentary evidence in support of their respective contentions and the court is directed to dispose of the cases in the light of the principles laid down in **K.S.E.B.** v. **Livisha** - 2007(3) K.L.T.1. Parties are directed to appear before the court below on 18.1.2008.

Civil Revision Petitions are disposed of accordingly.

M.N.Krishnan,
Judge.

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